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# IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF CHELAN

Timothy Borders, Thomas Canterbury, Tom Huff, Margie Ferris, Paul Elvig, Edward Monaghan, Dino Rossi, and Christopher Vance, Washington residents and electors, and the Rossi for Governor Campaign, a candidate committee,

Petitioners,

v.

King County and Dean Logan, its Director of Records, Elections and Licensing Services, et al.,)

Respondents

No. 05-2-00027-3

PETITIONERS' FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION

## TO: SNOHOMISH COUNTY

Pursuant to Civil Rules 26, 33 and 34 and the orders of the court, you are hereby requested to supply responses to these interrogatories and requests for production, within 10 days of the service of these requests upon you. Petitioners request that the responses to the interrogatories and the documents herein designated for production be produced at the offices of Davis Wright Tremaine, LLP, 1501 Fourth Avenue, 2600 Century Square, Seattle, Washington 98101-1688, and that petitioners, or someone acting on their behalf, be permitted to inspect and copy the designated documents.

PETITIONERS' FIRST INTERROGATORIES

AND REQUESTS FOR PRODUCTION (SNOHOMISH) - 1

SEA 1595625v1 55441-3

Davis Wright Tremaine LLP LAW OFFICES 2600 Century Square · 1501 Fourth Avenue Seattle, Washington 98101-1688 (206) 622-3150 · Fax: (206) 628-7699

#### **DEFINITIONS**

For purposes of these requests for production, the following terms shall have the meaning set forth below:

- 1 "You" means the respondent county to which these requests are addressed above, its auditor, and their agents, employees, attorneys and representatives.
- 2 "Relating to" means pertinent, relevant or material to, evidencing, having a bearing on, or concerning, affecting, discussing, dealing with, considering or otherwise relating in any manner whatsoever to the subject matter of the inquiry.
- 3. A "measure," as in "any measures taken," includes any policy, procedure, practice, effort, plan, or action whose purpose is or was the thing or result referred to.
- 4. The "November 2004 general election" refers to Washington's statewide general election on November 2, 2004 and all subsequent recounts.
- "Overvote" means a ballot containing marks in addition to a single, completely filled-in oval for one candidate.
- "Undervote" means a ballot containing a less than completely filled-in oval 6. for a candidate.
- 7. "Ballots Cast" means the total number of ballots containing a valid vote for a candidate (whether printed on the ballot or written in) and those not counted because of overvotes and undervotes.
- 8. "Voters Credited" means the number of voters who received credit for voting in the county's voter registration database. Voters Credited includes voters in the address confidentiality program, voters who cast federal write-in ballots without being registered in the county for which they voted, and voters who had inactive registrations at the time they voted.
- 9. "Reconciliation Discrepancy" means the difference between Ballots Cast and Voters Credited.

10. When used with respect to provisional or absentee ballots, "verify," "verified," or "verification" refers to the process of matching the information provided with the provisional ballots (such as the voter's name, address, signature, and date of birth) with the voter registration database for the purpose of determining whether the voter is eligible and registered to vote and whether the voter has voted another ballot.

# INTERROGATORIES AND REQUESTS FOR PRODUCTION

<u>REQUEST FOR PRODUCTION NO. 1</u>: Please produce all documents describing, recording, or referring to any attempt to reconcile the Ballots Cast with Voters Credited in your county in the November 2004 general election.

# **RESPONSE:**

<u>REQUEST FOR PRODUCTION NO. 2</u>: Please produce all documents describing, analyzing, or referring to any discrepancy between the number of Ballots Cast and the number of Voters Credited in your county in the November 2004 general election.

# RESPONSE:

INTERROGATORY NO. 1: Please state the number of Ballots Cast, the number of Voters Credited, and the Reconciliation Discrepancy in your county in the November 2004 general election and describe in detail how you calculated that number.

### ANSWER:

<u>INTERROGATORY NO. 2</u>: Please list (a) all the reasons for the Reconciliation Discrepancy stated in your answer to the previous interrogatory, (b) state the portion of the

Reconciliation Discrepancy, in terms of the number of Ballots Cast, in excess of the number of Voters Credited that you attribute to each reason, and (c) describe in detail how you calculated these numbers. Responsive information will include information regarding how many ballots of the discrepancy are due to provisional ballots' being counted without being verified, information regarding what the other reasons are for the discrepancy and how many ballots are explained by each reason, and information regarding how many of the ballots of the discrepancy you can provide no explanation or reason for.

## ANSWER:

INTERROGATORY NO. 3: Of the Voters Credited in your county in the November 2004 general election, please state the number of them, respectively, who (a) are in an address-confidentiality program; (b) had inactive registrations at the time they voted; or (c) cast federal write-in ballots without being registered to vote in your county and, for each category, describe in detail how you calculated the number.

# ANSWER:

REQUEST FOR PRODUCTION NO. 3: Please produce documents sufficient to show (a) any Reconciliation Discrepancy in your county in any general election before the November 2004 general election occurring in or since 1994 and (b) any consideration of the causes of such discrepancies.

## RESPONSE:

REQUEST FOR PRODUCTION NO. 4: Please provide copies of all reports and communications sent to the Office of the Secretary of State between January 1, 2005, and the present regarding the Reconciliation Discrepancy in your county.

# **RESPONSE:**

INTERROGATORY NO. 4: Please list the precincts in which more voters are credited with casting ballots than there were ballots counted as cast in such precinct. Provide the number of these discrepancies (total and per precinct.)

# ANSWER:

INTERROGATORY NO. 5: Please describe in detail all measures taken to ensure that provisional ballots were not counted without first being verified in your county during the November 2004 general election.

### ANSWER:

INTERROGATORY NO. 6: Please state the number of provisional ballots counted without first being verified in your county during the November 2004 general election and describe in detail how you identified those ballots and calculated that number.

# ANSWER:

2600 Century Square · 1501 Fourth Avenue Seattle, Washington 98101-1688 (206) 622-3150 · Fax: (206) 628-7699 INTERROGATORY NO. 7: Please state the number of provisional ballots counted that have never been verified in your county during the November 2004 general election and describe in detail how you identified those ballots calculated that number.

# ANSWER:

INTERROGATORY NO. 8: Please describe in detail all explanations for why, to the best of your knowledge or belief, any provisional ballots were counted without first being verified in your county during the November 2004 general election and state the basis for your knowledge or belief.

# ANSWER:

INTERROGATORY NO. 9: Please state whether there is any way to distinguish the provisional ballots cast in your county during the November 2004 general election from other ballots and, if so, describe in detail every way in which such ballots could be distinguished.

### ANSWER:

INTERROGATORY NO. 10: Please describe in detail all measures taken to ensure that absentee ballots were not counted without first being verified in your county during the November 2004 general election.

## ANSWER:

INTERROGATORY NO. 11: Please state the number of absentee ballots counted without first being verified in your county during the November 2004 general election and describe in detail how you calculated that number.

ANSWER:

INTERROGATORY NO. 12: Please state the number of absentee ballots counted without ever being verified in your county during the November 2004 general election and describe in detail how you calculated that number.

ANSWER:

INTERROGATORY NO. 13: Please describe in detail all explanations for why, to the best of your knowledge or belief, any absentee ballots were counted without first being verified in your county during the November 2004 general election and state the basis for your knowledge or belief.

ANSWER:

INTERROGATORY NO. 14: Please identify the dates on which absentee and military overseas ballots were mailed, the number of each type of ballot, and for each day from the date of the first mailing through the present how many of each type of ballot was received by you.

ANSWER:

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INTERROGATORY NO. 15: Please state whether there is any way to distinguish the absentee ballots cast in your county during the November 2004 general election from other ballots and, if so, describe in detail every way in which such ballots could be distinguished.

## ANSWER:

<u>INTERROGATORY NO. 16</u>: Please provide the number of absentee ballots rejected because of signature mismatch and a list of the individuals who attempted to cast such ballots.

# **ANSWER**:

<u>INTERROGATORY NO. 17</u>: Please describe the process and standards used in the signature comparison process conducted in your county.

# ANSWER:

<u>INTERROGATORY NO. 18</u>: Please provide the names of the individuals who conducted the signature review process and describe the training and guidance they received for this activity.

### ANSWER:

REQUEST FOR PRODUCTION NO. 5: Please produce any written guidance provided or received by you regarding the signature verification process.

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**RESPONSE:** 

REQUEST FOR PRODUCTION NO. 6: Please produce all documents referring to or recording any communication between you and any citizen or voter in Washington regarding allegations of fraud, mistake, or canvassing errors concerning the November 2004 general election.

**RESPONSE:** 

INTERROGATORY NO. 19: Please describe in detail all measures taken to ensure that ballots cast by felons who had not had their voting rights restored were not counted in your county during the November 2004 general election.

ANSWER:

INTERROGATORY NO. 20: Please state the number of ballots cast by felons who had not had their voting rights restored in your county during the November 2004 general election and describe in detail how you calculated that number.

ANSWER:

INTERROGATORY NO. 21: Please describe in detail all explanations for why, to the best of your knowledge or belief, any ballots cast by felons who had not had their voting rights restored were counted in your county during the November 2004 general election and state the basis for your knowledge or belief.

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ANSWER:

INTERROGATORY NO. 22: Please describe in detail all measures taken to ensure that ballots cast in the name of dead persons were not counted in your county during the November 2004 general election.

ANSWER:

INTERROGATORY NO. 23: Please state the number of ballots cast in the name of dead persons in your county during the November 2004 general election and describe in detail how you calculated that number.

ANSWER:

INTERROGATORY NO. 24: Please describe in detail all explanations for why, to the best of your knowledge or belief, any ballots cast in the name of dead persons were counted in your county during the November 2004 general election and state the basis for your knowledge or belief.

ANSWER:

INTERROGATORY NO. 25: Please describe in detail all measures taken to ensure that ballots cast by voters voting more than once—whether by multiple ballots of one or more type(s) (poll, provisional, absentee), by being registered to vote in more than

one jurisdiction or using more than one name, or otherwise—were not counted in your county during the November 2004 general election.

# ANSWER:

INTERROGATORY NO. 26: Please state the number of ballots cast by persons voting more than once—whether by multiple ballots of one or more type(s) (poll, provisional, absentee), by being registered to vote in more than one jurisdiction or using more than one name, or otherwise—in your county during the November 2004 general election and describe in detail how you calculated that number.

# ANSWER:

INTERROGATORY NO. 27: Please describe in detail all explanations for why, to the best of your knowledge or belief, any ballots cast by persons voting more than once—whether by multiple ballots of one or more type(s) (poll, provisional, absentee), by being registered to vote in more than one jurisdiction or using more than one name, or otherwise—were counted in your county during the November 2004 general election and state the basis for your knowledge or belief.

### ANSWER:

<u>INTERROGATORY NO. 28</u>: Please identify all audits of your county's voting or canvassing procedures conducted in the last five years, whether or not they were related to a particular election.

# ANSWER:

<u>REQUEST FOR PRODUCTION NO. 7</u>: Please produce all documents describing, summarizing, or referring to the performance or results of all audits identified in your answer to the preceding interrogatory.

## **RESPONSE:**

INTERROGATORY NO. 29: Please describe in detail the instructions and criteria provided to any people responsible for identifying, counting, and enhancing or duplicating undervotes or overvotes in your county in the November 2004 general election and the means by which such instructions or criteria were communicated.

## ANSWER:

REQUEST FOR PRODUCTION NO. 8: Please produce all documents relating to any instructions or criteria provided to any people responsible for identifying, counting, and enhancing or duplicating undervotes or overvotes in your county in the November 2004 general election, including any e-mails, memos, directives, or manuals stating, referring to, or implementing any criteria or procedures for such enhancement or correction.

### **RESPONSE:**

REQUEST FOR PRODUCTION NO. 9: Please produce for inspection the originals of all ballots that were enhanced or duplicated in your county in the November 2004 general election.

# **RESPONSE:**

<u>INTERROGATORY NO. 30</u>: Please describe in detail how and where ballots have been stored in your county since Election Day.

# ANSWER:

INTERROGATORY NO. 31: Please describe in detail all security measures taken at each location where ballots were stored or counted during, respectively, the November 2004 general election and each subsequent recount, to ensure that no ballots were tampered with, altered, or added to or removed from the containers, vault, or other storage area used to hold ballots.

## ANSWER:

INTERROGATORY NO. 32: Please identify by name, address, and telephone number every person who had access to ballots cast in your county in the November 2004 general election, including all persons who had access to ballots in the containers, vault, or other storage area used to hold ballots.

# ANSWER:

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INTERROGATORY NO. 33: Provide a detailed description of the dates and hours that security personnel were stationed at any facility at which ballots from the November 2004 general election have been stored or counted in your county, and the number of security personnel at each time.

## ANSWER:

REQUEST FOR PRODUCTION NO. 10: Please produce all documents stating, referring to, or implementing any policy, procedure, or practice for handling or counting absentee or provisional ballots in your county since January 2004, including any changes to such policies, procedures, or practices.

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 11: Please produce all documents stating, referring to, or implementing any policies, procedures, or practices for handling or counting ballots cast in your county in the November 2004 general election for which there appears to be no valid signature on the ballot envelope or poll book, or on the voter registration record.

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 12: Please produce all documents stating, referring to, or implementing any *changes* to any policies, procedures, or practices for handling or counting ballots cast in your county in the November 2004 general election for which there appears to be no signature on the ballot envelope or poll book, or on the voter registration record.

PETITIONERS' FIRST INTERROGATORIES

AND REQUESTS FOR PRODUCTION (SNOHOMISH) - 14

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 13: Please produce all documents that describe, refer to, or record any problem, issue, security breach, alarm activation, or complaint regarding the security of ballots cast in your county in the November 2004 general election.

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 14: Please produce all documents that describe, memorialize, or record any Canvassing Board meetings that have occurred in your county since January 1, 2004.

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 15: Produce any and all reports (including but not limited to electronic communications) or complaints from or between elections staff or observers regarding election irregularities in your county, including but not limited to any allegations of security breaches, ballot mishandling, counting issues, mistakes, or any irregularities, and the like, from January 1, 2004 to present.

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 16: Produce documents sufficient to show the dates and hours for which security personnel were stationed at any facility in your county at which ballots from the November 2004 general election have been stored or counted.

PETITIONERS' FIRST INTERROGATORIES AND REQUESTS FOR PRODUCTION (SNOHOMISH) - 15 SEA 1595625v1 55441-3

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## **RESPONSE:**

REQUEST FOR PRODUCTION NO. 17: Please produce all documents constituting, referring to, or recording any communications between you and the Secretary of State or any person employed by that office concerning the November 2004 general election, including any communications regarding allegations of fraud, mistake, canvassing errors, or affidavits submitted by voters whose ballots were not counted.

# **RESPONSE:**

REQUEST FOR PRODUCTION NO. 18: Please produce the complete countywide Voter File for your county, including permanent and temporary absentee marks and all available vote history through the General Election of November 2, 2004. Please produce this in a machine readable format including a file layout and/or column headers. Such file should include, but not be limited to, the following items:

- a. Voter full name, including first name, middle name or initial, last name, suffix and prefix if applicable;
- b. Voter full registration address, including street address and unit number if applicable, city, state, and nine-digit zip code;
- c. Voter full mailing address, even if identical to voter registration address, including street address and unit number if applicable, city, state, and nine-digit zip code;
- d. Voter Registration Number, which also may be called Affidavit Number or Voter ID Number;
- e. Registration Date;
- f. Registration Status, such as Active or Inactive, and Registration Activity Date, which may also be called Last Voted Date;
- g. Birthdates; and,
- h. District designations, including but not limited to Precinct, Legislative District, Congressional District and County Council District.

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1	RESPONSE:
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3	DATED this Lot day of January, 2005.
4	Davis Wright Tremaine LLP
5	Attorneys for Petitioners
6	
7	$By \longrightarrow K$
8	Harry J.F. Korrell, WSBA #23173 Robert J. Maguire, WSBA #29909
9	Robert J. Magune, WBDA #25505
10	
11	RESPONSES DATED this day of, 2005.
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13	By: Attorneys for
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1	STATE OF WASHINGTON )
2	) ss. COUNTY OF)
3	, being first duly sworn, upon oath, deposes and states: That he/she an officer of the in this lawsuit, that he has read the within and foregoing interrogatories and answers thereto, knows the contents
4	read the within and foregoing interrogatories and answers thereto, knows the contents
5	thereof, and believes the same to be true and correct to the best of his knowledge.
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7	Its
8	SUBSCRIBED AND SWORN TO before me this day of, 2005.
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11	NOTARY PUBLIC in and for the State of
12	Washington, residing at
13	My commission expires
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